

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

THE SURGERY CENTER at 900 NORTH )  
MICHIGAN AVENUE, LLC, )

Plaintiff, )

v. )

AMERICAN PHYSICIANS ASSURANCE )  
CORPORATION, INC., and AMERICAN )  
PHYSICIANS CAPITAL, INC., )

Defendants. )

Civil Action No: 1:15-cv-4336

Hon. Sharon Johnson Coleman

Mag. Jeffrey Cole

**DEFENDANTS' MOTION FOR APPROVAL OF BILL OF COSTS AND  
ORDER DIRECTING PLAINTIFF TO TENDER PAYMENT**

Defendants American Physicians Assurance Corporation and American Physicians Capital, Inc., move this Court to approve the Bill of Costs previously filed with the Clerk of Court pursuant to Fed. R. Civ. P. 54(d)(1), LR 54.1 and 28 U.S.C. § 1920, direct the Clerk of Court to tax the requested costs against Plaintiff and for an Order directing Plaintiff to tender payment within 30-days thereafter. In support of this Motion, Defendants state as follows:

1. On June 26, 2018, this Court granted Defendants' motion pursuant to Fed. R. Civ. P. 50(a) for judgment as a matter of law at the close of Plaintiff's case-in-chief at trial and entered judgment in Defendants' favor as to all claims asserted by Plaintiff. (Dkt. 335-337). On July 25, 2018, at 2:14 p.m., Plaintiff timely filed a Notice of Appeal (Dkt. 338). Shortly thereafter at 4:10 p.m., Defendants timely filed with the Clerk of Court pursuant to L.R. 54.1(a) their Fed. R. 54(d)(1) Bill of Costs and served the same on Plaintiff at 4:32 p.m. (Dkt. 340; Ex. A). Plaintiff did not object to nor move to stay the Bill of Costs at any time.

2. On April 25, 2019, the Court of Appeals for the Seventh Circuit issued its decision affirming this Court's entry of judgment in Defendants' favor. (Dkt. 359). On May 17, 2019, the

opinion of the Court of Appeals was certified and the Court of Appeal's final judgment and mandate were issued. (Dkt. 358-360).

3. The Clerk of Court for the Northern District of Illinois has not taxed the costs sought in Defendants' Bill of Costs. Accordingly, Defendants request that this Court approve the Bill of Costs totaling \$20,511.90 previously filed with the Clerk of Court, direct the Clerk of Court to tax those costs against Plaintiff and order Plaintiff to tender payment of such costs to Defendants within thirty-days thereafter.

Respectfully submitted,

By: *Benjamin F. Klimek*

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